

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

TRUSTEES of the CHICAGO REGIONAL  
COUNCIL OF CARPENTERS PENSION  
FUND, et al.

Plaintiffs,

Case No. 08 C 797

Judge Kennelly

V.

BENCHMARK OVERHEAD DOOR CORP.

Defendant.

## MOTION FOR DEFAULT JUDGMENT

Plaintiffs, by its attorney, Daniel P. McAnally, move this Honorable Court to enter Judgment by Default according to Fed. R. Civ. P. 55 for Defendant's failure to appear, answer or otherwise plead. Further, in support of this Motion the Plaintiffs state:

1. Plaintiffs filed their complaint on February 6, 2008 and the summons and complaint was served on Joe Berglund, attorney on February 28, 2008 via the Process Server. **(Exhibit A, affidavit of service)**

2. The Defendant has failed to appear, answer or otherwise plead within the time allowed by the Fed. R. Civ. P.

3. At all times relevant to this action, the Defendant has been bound by the provisions of a Collective Bargaining Agreement and the Trust Agreements which created the Trust Funds. Pursuant to the provisions of the Trust Agreements and the Collective Bargaining Agreement, the Defendant is required to submit monthly reports to the Trust Funds which list the number of hours worked by the Defendant's employees and to pay the ERISA contributions based on those hours.

4. The Defendant submitted the monthly contribution reports but failed to submit the ERISA contributions shown to be owed in the amount of \$25,621.71 for the months of August 2007 through January 2008. The Defendant also failed to remit the union dues it withheld from the employees' wages. The amount of dues withheld is \$1,623.71 for the period November 2007 through January 2008. **(Exhibit B, affidavit of James Rosemeyer)**

5. The Defendant owes interest on the unpaid ERISA contributions in the amount of \$502.89 pursuant to the Trust Agreements and 29 U.S.C. §1132(g)(2)(B). **(Exhibit B)**

6. The Defendant owes liquidated damages on the unpaid ERISA contributions in the amount of \$2,415.12 for the period June 2007 through January 2008 pursuant to the Collective Bargaining Agreements, the Trust Agreements and 29 U.S.C. §1132(g)(2)(C)(ii). **(Exhibit B)**

7. The Defendant owes the sum of \$1,645 for necessary and reasonable attorney fees and costs of \$510.00 which are collectible under the terms of the Collective Bargaining Agreement, the Trust Agreements and 29 U.S.C. §1132(g)(2)(D). **(Exhibit C, affidavit of Daniel P. McAnally)**

WHEREFORE, Plaintiffs pray that their motion for judgment by default be granted in the amount of \$32,318.43.

Respectively submitted,

s/ DANIEL P. McANALLY  
Attorney for Plaintiffs

Whitfield McGann & Ketterman  
111 E. Wacker Drive  
Suite 2600  
Chicago, IL 60601  
312/251-9700